

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

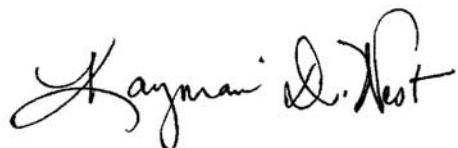
Brandon J. Lunn,)	C/A No.	5:12-2706-MGL-KDW
)		
)		
Plaintiff,)		
)		
v.)		ORDER
)		
Sgt. Ragland, Lt. Robertson,)		
)		
Defendants.)		
)		
)		

Plaintiff, proceeding pro se and *in forma pauperis*, brought this action alleging violations of his constitutional rights pursuant to 42 U.S.C. § 1983. This matter comes before the court on Plaintiff's Motion to Compel filed on January 11, 2013. ECF No. 31. On January 14, 2013, Defendants filed their opposition to Plaintiff's motion contending that Plaintiff did not serve them with discovery prior to filing his Motion to Compel. ECF No. 32. Plaintiff filed a reply to Defendants' response on January 28, 2013. ECF No. 37.

Federal Rule of Civil Procedure 37 provides that if a party fails to respond to discovery, the party seeking discovery may move for an order compelling production. The decision to grant or to deny a motion to compel discovery rests within the broad discretion of the trial court. *See Lone Star Steakhouse & Saloon, Inc. v. Alpha of Va., Inc.*, 43 F.3d 922, 929 (4th Cir. 1995) (holding the "Court affords a district court substantial discretion in managing discovery and reviews the denial or granting of a motion to compel discovery for abuse of discretion.") (internal citation omitted); *LaRouche v. Nat'l Broad. Co., Inc.*, 780 F.2d 1134, 1139 (4th Cir. 1986) (holding "[a] motion to compel discovery is addressed to the sound discretion of the district court.").

Because Plaintiff did not serve Defendants with discovery prior to filing his Motion to Compel and Defendants have indicated that they “will treat Plaintiff’s Motion as Interrogatories and will respond accordingly,” Plaintiff’s Motion to Compel, ECF No. 31, is denied. Plaintiff is advised that Defendants have “30 days after being served” with discovery to respond or object to Plaintiff’s discovery requests. *See* Fed. R. Civ. P. 33 and 34.

IT IS SO ORDERED.



February 5, 2013
Florence, South Carolina

Kaymani D. West
United States Magistrate Judge